

APR 23 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

EDWIN ANG DE JESUS,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 07-74291

Agency No. A98-453-392

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 15, 2008<sup>\*\*</sup>

Before: B. FLETCHER, FISHER and PAEZ, Circuit Judges.

This is a petition for review from the Board of Immigration Appeals’  
 (“BIA”) denial of a motion to reopen.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Respondent's motion to dismiss is construed as a motion for summary disposition. So construed, the motion is granted because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard). A review of the administrative record demonstrates that petitioner presented no evidence in his motion to reopen that his daughter is a lawful permanent resident of the United States. Petitioner therefore failed to show that he has a qualifying relative for purposes of cancellation of removal as defined in 8 U.S.C. § 1229b(b)(1)(D). The BIA did not abuse its discretion in denying petitioner's motion to reopen because the BIA correctly concluded that, as a matter of law, petitioner was ineligible for cancellation of removal. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003), *Molina-Estrada v. INS*, 293 F.3d 1089, 1093-94 (9th Cir. 2002). Accordingly, this petition for review is denied.

All other pending motions are denied as moot.

The temporary stay of removal shall continue in effect until issuance of the mandate. The motion for stay of voluntary departure, filed after the departure period had expired, is denied. *See Garcia v. Ashcroft*, 368 F.3d 1157 (9th Cir. 2004).

**PETITION FOR REVIEW DENIED.**